

# THE ADVISOR

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## Happy Holidays!

*The Ethics Committee and staff wish you and yours a very happy holiday season filled with good times and good cheer; and may the new year be prosperous and productive!*

## Upcoming 2014 Ethics Training for New Employees

If you are a new employee of the Legislature, you are required to attend ethics training within the first 10 days of Legislative Session. Legislative Ethics Training in a classroom setting will be available in Juneau on:

**Friday, January 17, 2014**

(Details on time & location will follow soon!)

If you are unable to make this training date, please contact **Linda Leigh** at **269-8179** or at [linda.leigh@akleg.gov](mailto:linda.leigh@akleg.gov) to make alternate arrangements.

RETURNING LEGISLATIVE EMPLOYEES WHO WISH TO REFRESH THEIR  
KNOWLEDGE OF LEGISLATIVE ETHICS DO'S & DON'TS  
ARE ENCOURAGED TO ATTEND!



SELECT COMMITTEE ON  
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## Use of State Resources for Legislative Outreach Newsletters and Fliers

The Ethics office has fielded many questions regarding the use of state resources for legislative newsletters and fliers.

2014 LEGISLATIVE DISTRICT BOUNDARIES were approved by Alaska Superior Court Judge Michael McConahy in mid-November.



**However, for purposes of the Legislative Ethics Act, AS 24.60, the Ethics Committee determined at the June 14, 2012 committee meeting that legislators represent the 2012 legislative districts that were applicable for the 2012 November elections until the 2014 November election results are certified by the State Division of Elections.**

The use of state resources to print and distribute legislative newsletters and fliers to residents who are not currently within the legislator's 2012 district or to those who have not requested to be on the legislator's mailing list would be considered a campaign related communication and a violation of AS 24.60.030(a)(2) and (a)(5).

Please click "[HERE](#)" to preview a nine-page Q&A highlighting questions received in 2012 and 2013 regarding these issues. The handout is divided into categories for ease of reading:

- Information/Content – General
- Information/Content – Campaign Related
- Funds – State Resources
- Funds – Other
- Distribution – General
- Distribution – Timing
- Distribution – Door Knocking
- Voter Registration Activities

We hope this information will be a helpful resource as you prepare legislative communications and determine the distribution area. As always, we are available to answer your fact-specific inquiries.

## Advisory Opinion 13-04 Issued on October 28, 2013

### **AO 13-04 Use of State Resources for Receipt, Repair and Delivery of Charitable Contributions to a Nonprofit Organization, requested by Representative Les Gara.**

The committee reaffirmed that receiving charitable donations in a legislative office is permitted under AS 24.60.030(a)(2)(I). The committee defined “receive” to mean “to come into possession of.”

Representative Gara’s legislative office may “receive” laptop computers on behalf of the non-profit organization Facing Foster Care in Alaska.

The committee did not construe “receive” to allow the use of legislative assets and resources for picking up and delivering the laptop computers during various steps of the process for Facing Foster Care prior to delivery to foster youth. The committee noted, “Although the state has a special responsibility to children, and especially to foster children [since they are wards of the state], the exception in AS 24.60.030(a)(2)(I) is not broadened as a result of that. Clearly the legislature as a body may authorize the use of state funds for foster children; however, this does not mean an individual legislator may use legislative resources to benefit foster children without limitation.” The committee further stated that the exception permitting legislators to solicit and receive charitable contributions in a state facility is a narrow exception to the three prohibitions relating to the use of state resources and assets which includes the prohibition for the private benefit of any person.

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## COMPLAINT DECISIONS ISSUED

### **Complaint Decision S 12-02, Senator Lyman Hoffman, issued October 28, 2013**

The committee dismissed all four allegations; however, the committee determined that Senator Hoffman failed to provide sufficient detail on his Close Economic Association disclosure for the calendar years 2008, 2009, and 2010, pursuant to the requirements of AS 24.60.070 in regard to five joint business ventures with another legislator. The committee determined they could not with confidence find that Senator Hoffman “knowingly” filed incomplete close economic association disclosures under the conditions set out in AS 11.81.900(2). Senator Hoffman

subsequently submitted a detailed disclosure for 2013.

A second allegation was dismissed after determining a state land lease was less than the reporting threshold of \$5,000 as stipulated in AS 24.60.040.

A third allegation was dismissed as Senator Hoffman declared a conflict of interest on the Senate floor, under the requirements of AS 24.60.030(g), when legislation relating to pupil transportation was up for a vote. Under the Alaska Legislature Uniform Rules of Procedure, Rule 34(b), there was an objection each time he declared a conflict and Senator Hoffman was required to vote. Senator Hoffman is

one of three owners in Golden Eagle Unlimited, Inc., a company on contract with the Lower Kuskokwim School District, providing school bus transportation for \$928,583 to \$1,094,186.

The committee determined Senator Hoffman “inadvertently” failed to disclose board memberships on six boards pursuant to the requirements of AS 24.60.030(f). He is also part owner of all six entities. Senator Hoffman subsequently submitted a disclosure for 2013 with the additional board memberships listed. Click “[HERE](#)” to view entire decision. ♦

## COMPLAINT DECISIONS ISSUED *continued*

### **Complaint Decision S 12-03, Senator Lyman Hoffman, issued October 28, 2013**

The committee found Senator Hoffman in violation of “knowingly” filing incomplete Legislative Financial Disclosures (LFD) for the calendar years 2008, 2009, and 2010 to the Alaska Public Offices Commission (APOC). AS 24.60.240 and AS 11.81.900(2). Senator Hoffman failed to disclose substantial amounts of income in the range of \$311,000 and \$690,000. (Note: Financial statements require ranges and not actual amounts of income.) Income missing was related to Senator Hoffman’s partnership in Golden Eagle Unlimited, Inc., rental

income, dividends, and interest from various sources either not disclosed or not listed, and income from one listed entity and several sources not listed. APOC also determined that Senator Hoffman failed to include portions of required information that did not have an ascertainable value including a detailed list of joint business ventures he shared with another legislator, percentages for State of Alaska retirement accounts and deferred compensation accounts, and the details of his real property interests and his role in the business.

The committee determined the following: The LFD is a financial disclosure and the name itself translates into disclosing a person’s

financial status which includes income, a major reporting component of the disclosure; Senator Hoffman was consistent in not including dollar amounts over the years; the form clearly stated “Total Income” or “Amount” in areas asking for income information; and dollar amounts were included on his 2008 LFD for gifts received.

The committee suspended any fines that could have been imposed under AS 24.60.178 taking into consideration the fact Senator Hoffman paid a fine of \$7,446 to APOC. Click [“HERE”](#) to view entire decision.

### **Complaint Decision H 12-07, former Representative Alan Dick, issued August 21, 2013**

The complaint contained eight allegations. The committee dismissed three allegations; two of these alleged campaign materials were stored, distributed or posted in Dick’s Fairbanks legislative office and one alleged he threatened to take legislative action based on a person’s decision to provide or not provide a political contribution or a thing of value.

The committee found Dick in violation of five of the allegations.

- Violated the restrictions on the use of state resources outlined in AS 24.60.030(a)(2) in that he, his wife and sometimes his son used his Fairbanks legislative office as a residence for approximately one month between mid-October and mid-November 2012 and sporadically during the month of August. State resources were used not only for his private benefit but for the

private benefit of others, that of his wife and son.

- Performed campaign activities out of his legislative office in the two weeks prior to the 2012 General election in violation of AS 24.60.030(a)(2) and (a)(5).
- Violated AS 24.60.030(a)(5), (a)(4) and (b) in that he authorized the use of government resources for his private benefit and for campaigning by requiring one of his legislative employees to prepare material for a chamber of commerce candidate debate on government time with the use of government resources. The committee noted legislators are well aware of the difference between a “candidate” debate and an informational forum whereby a legislator is on a panel discussing a current issue or pending legislation.
- Violated AS 24.60.030(a)(2) and (a)(5) in that he routinely combined legislative travel with campaign activi-

ties. He received \$2,518.05 in reimbursement for eight separate expenses while also receiving reimbursement from his District 38 campaign account for similar expenses. Seven separate expenses totaling \$981.63 were reimbursed by the Legislature but were not authorized or allowed under the legislature’s travel guidelines. The committee was adamant that a legislator be accountable for ensuring the accuracy of travel reimbursement requests even if staff completes and signs the form.

Under AS 24.60.178(c) the committee is requiring Dick to pay the costs associated with the investigation and adjudication of the complaint which totaled \$14,495.35 and \$3,499.68 for improperly received benefits. Dick must reimburse the Legislature a total of \$17,995.03 by September 11, 2014. Click [“HERE”](#) to view entire decision. ♦

## COMPLAINT DECISIONS ISSUED *continued*

### **Complaint Decision H 12-05,** **Representative Bob Herron, issued** **November 21, 2013**

The complaint contained five allegations. The committee dismissed two of them.

- A state land lease for New York Creek Associates did not meet the reporting threshold of \$5,000 per year as required under the requirements of the Act.
- The committee determined Rep. Herron did declare a conflict of interest under the requirements of AS 24.60.030(g) on the House floor when SB 182 was heard on April 15, 2012. State funding for school pupil transportation was contained in the bill. Rep. Herron is part-owner of Golden Eagle Unlimited, LLC, on contract with the Lower Kuskokwim School District to provide pupil transportation for \$930,000.

The committee found probable cause that Rep. Herron knowingly filed incomplete Close Economic Association disclosures in 2009, 2010, and 2011 under the requirements of AS 24.60.70. He failed to provide sufficient detail for the five joint business ventures with another legislator in that he described the

association as “Joint Business Venture” with no additional detail.

The committee found probable cause that Rep. Herron knowingly failed to disclose board memberships on five entities for the years 2009 through 2013 under the requirements of AS 24.60.030(f). He is part-owner of all these entities. Formal filings with the state division of licensing shows that Rep. Herron has held the positions of president, vice president, secretary and director with the positions changing every year or so.

Rep. Herron must submit detailed Close Economic Association disclosures for the years 2009, 2010 and 2011, and Board Membership disclosures for the years 2009 through 2013 by December 20, 2013, or a fine of \$100/day up to \$2,500 will be assessed.

The committee found probable cause that Rep. Herron knowingly failed to disclose a State contract, Golden Eagle Unlimited, LLC, with the Lower Kuskokwim School District for the years 2009, 2010, and 2011. State contracts with a value of \$5,000 or more must be disclosed on an annual basis. The contract had an approximate value of \$930,000. Rep. Herron’s failure to file a State

contract disclosure for the first three years of his legislative term in addition to checking “no State contract” on his 2009 Legislative Financial Disclosure and leaving the section blank on his 2010 and 2011 LFD statement was, in the committee’s determination, not just merely an oversight or poor reporting. Rep. Herron stated during his interview that he knew the contract was a State contract. Rep. Herron was fined \$5,000 to be paid by January 6, 2014. Rep. Herron must submit State contract disclosures for the years 2009, 2010 and 2011, by December 20, 2013, or a fine of \$100/day up to \$2,500 will be assessed.

The committee noted that Rep. Herron was a former session-only legislative staffer for eight years and served as the City Manager of Bethel for seven years and was well acquainted with the mandatory requirement of disclosures when working for a government entity. When Rep. Herron took office in 2009 he participated in a personalized legislative ethics training session with seven newly elected legislators and attended ethics training again in 2011. The committee determined that Rep. Herron had knowledge and information that ethics disclosures were required. Click [“HERE”](#) to view entire decision. ♦

### **Complaint Decision H 12-06,** **Representative Bob Herron, issued** **November 21, 2013**

The committee found Rep. Herron in violation of “knowingly” filing incomplete Legislative Financial Disclosures (LFD) in 2009, 2010, and 2011 with the Alaska Public Offices Commission (APOC). His disclosures were incomplete in multiple areas within each document and he failed to disclose substantial amounts of income. The ascertainable amount of income missing from the statements was between

\$98,000 and \$220,000. (Note: Financial statements require ranges and not actual amounts of income.) Income missing was related to Rep. Herron’s partnership in Golden Eagle Unlimited, Inc., as well as dividends, capital gains, and his legislative salary. APOC also determined that Rep. Herron failed to include portions of required information that did not have an ascertainable value.. He failed to list joint business ventures he shared with another legislator even though he did list that he had a Close Economic Association with the legislator. Under real property interests, he

failed to disclose ownership of a property and failed to disclose his spouse and another legislator and the legislator’s spouse as co-owners. He also failed to disclose that Golden Eagle Unlimited, LLC, was a State contract.

The committee suspends any fine that could have been imposed under AS 24.60.178 taking into consideration the fact Rep. Herron paid a fine of \$7,446 to APOC. Click [“HERE”](#) to view entire decision.

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